

April 22, 2016

Becca Conklin
Washington State Department of Ecology
Water Quality Program
PO Box 47600
Olympia, WA 98504

Re: Ecology's proposed Human Health Water Quality Criteria

Dear Ms. Conklin:

The Association of Washington Cities (AWC) is a private, non-profit, non-partisan corporation that represents Washington's cities and towns before the state legislature, Congress, the executive branch, and with state and federal regulatory agencies. Membership is voluntary. AWC, however, consistently maintains 100 percent participation from Washington's 281 cities and towns.

Cities take seriously our responsibility to provide clean and healthy water to our residents. Many of our cities are subject to Clean Water Act regulation of municipal wastewater treatment plants and stormwater through the NPDES permitting program. Cities collectively operate over 200 wastewater treatment plants with a combined capacity of over a billion gallons of day of treatment capacity – working around the clock to ensure that all residents of the state have access to safe and clean waterways.

Our members stand to be greatly impacted by Ecology's proposed human health surface water quality criteria.

AWC has been an active participant in advisory committees working with the Department of Ecology (DOE) in your efforts to develop human health surface

water quality criteria. We appreciate the robust process you have undertaken, and while we do not agree with every element of this proposal we appreciate the thoughtful and transparent effort you made to get here. Given that we have participated throughout the process for several years, we are not going to touch on every issue involved and expect that you will continue to consider the significant and voluminous input we have provided to date.

AWC is supportive of the acknowledgement within this rule that certain unique and ubiquitous chemicals in the waste stream such as arsenic, PCBs and mercury need special attention and treatment. We have shared information with the Department supporting our concern that without such special consideration it will be impossible for cities to meet criteria as stringent as would be generated by the default formulas. We believe you have offered a defensible and approvable approach on these pollutants.

AWC recognizes that some parameters, such as mercury and PCBs are not well suited to Clean Water Act (CWA) controls, yet very low criteria will trigger such requirements. The DOE has a program to develop Chemical Action Plans (CAPs) which describe broader more effective actions than CWA approaches. CAPs have now been developed for PCBs, Mercury, PBDEs, PAHs and Lead. It is noteworthy that the CAPs for PCBs and Mercury do not proscribe significant actions for CWA permitted dischargers. AWC believes that CAPs are the best way to address certain persistent, bioaccumulative toxicants, as opposed to the narrow scope of the CWA which focusses on NPDES permits and TMDLs.

We also support the use of relative source contribution of one. Our consistent perspective throughout this discussion is that the point source dischargers should be held to a strong but achievable set of standards, and that the real place to make progress is with non-regulated sources. We continue to support the need for a more robust chemical action plan process that will produce real tools to make more significant environmental and public health gains.

AWC continues to prefer the earlier version of this rule proposal that included a cancer risk level of 10^{-5} . Although many of the most acute challenges are addressed by the treatment of PCBs, Mercury and Arsenic, the reversion to a 10^{-6} risk level in this proposal causes great long-term uncertainty with other chemicals. We are concerned with parameters with criteria so low that existing analytical methods can't tell us if the receiving waters meet the criteria or even if the parameters are present in treated wastewater. The current analytical limitations

coupled with very low criteria make it impossible to determine possible future impacts to permitted dischargers for many parameters. We reiterate our request that in the interest of certainty the testing methodologies be specified and incorporated into the rule. Should more sensitive testing methodologies be approved, this approach would allow careful consideration about implications rather than potentially creating great challenges by locking in unattainably low criteria.

While we appreciate the consistent support that Ecology has shown regarding the need for robust and attainable implementation tools we feel that the current proposal continues to fall short on that front. For municipal treatment plant operators, the only two tools that are potentially relevant are variances and implementation schedules. Both present significant weaknesses. Variances have never been granted in Washington State and must be approved by the Federal Environmental Protection Agency. We are not convinced that the variance approached contemplated by this rule provide a clear pathway to compliance. Similarly we are concerned that compliance schedules will not serve to address the most difficult challenges because they must ultimately end at compliance – which may be impossible in some instances. Particularly given the discussion above concerning the uncertainty with whether the receiving bodies across the state actually meet the proposed new standards, it is critical that there be solid and deliverable implementation tools. We believe that there is still work to do be done here.

Finally, we must note that we are disappointed with the economic impact analysis incorporated into this proposal. We believe it significantly undersells the potential costs particularly for future scenarios where testing methodologies improve and for costs associated with source control implementation for types of sources outside of the jurisdiction of utilities to control.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'CS' or 'Carl Schroeder', written in a cursive style.

Carl Schroeder

Association of Washington Cities
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Olympia, WA 98501